

AMENDED IN ASSEMBLY FEBRUARY 22, 2010

CALIFORNIA LEGISLATURE—2009–10 EIGHTH EXTRAORDINARY SESSION

SENATE BILL

No. 7

Introduced by Committee on Budget and Fiscal Review

January 20, 2010

~~An act relating to the Budget Act of 2009.~~ *An act to amend Sections 14560, 14580, and 14581 of, and to amend, repeal, and add Section 14574 to, the Public Resources Code, and to amend Sections 13476 and 13480 of the Water Code, relating to the environment, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 7, as amended, Committee on Budget and Fiscal Review. ~~Budget Act of 2009.~~ *Environmental pollution: program funding.*

(1) Existing law, the California Beverage Container Recycling and Litter Reduction Act (act), requires a distributor to pay a redemption payment no later than the 3rd month following the sale of a beverage container to the Division of Recycling in the Department of Resources Recycling and Recovery. The division is required to deposit those amounts in the California Beverage Container Recycling Fund. Under existing law, the money in the fund is continuously appropriated to the division to pay, among other things, handling fees to provide an incentive for the redemption of empty beverage containers in convenience zones. A violation of the act is a crime.

This bill would instead require, between February 1, 2010, and June 30, 2012, a distributor to submit the redemption payment to the department not later than the 2nd month following the sale, thereby imposing a state-mandated local program by changing the definition

of a crime. The bill would require the department, on or before January 10, 2012, to submit to the relevant policy and budget committees of the Legislature an assessment of the effect of ending the bimonthly payment on the solvency of the fund. The bill would revise the conditions under which a distributor may make an annual payment of redemption payments.

(2) Existing law provides that after setting aside funds for the payment of refund values and administrative fees, and for a reserve for contingencies, the remaining moneys in the California Beverage Container Recycling Fund are continuously appropriated to the division for expenditure for designated programs, grants, and fee payments.

This bill would prohibit the department from expending, for the 2010 and 2011 calendar years, funds annually authorized for grants for beverage container recycling and litter reduction programs, the statewide public education and information campaign, grants for recycling market development, and grants for certain programs. The bill would revise certain amounts that the department is authorized to expend from those moneys remaining in the funds.

The bill would require the department, subject to the availability of funds, to retroactively pay in full any payments that have been proportionally reduced during the period of January 1, 2010, through June 30, 2010.

Since the bill would revise the conditions under which funds are expended from a continuously appropriated fund, the bill would make an appropriation.

(3) Existing law continuously appropriates state and federal funds in the State Water Pollution Control Revolving Fund to the State Water Resources Control Board for loans and other financial assistance for the construction of publicly owned treatment works by a municipality, the implementation of management programs, the development and implementation of a conservation and management plan, and other related purposes in accordance with the federal Clean Water Act. Existing law, for the purposes of these provisions, defines “financial assistance” to include grants for eligible projects to the extent those grants are funded by a specified federal law. Existing law authorizes the state board to make loans for eligible projects at or below market interest rates.

This bill would authorize the state board to make loans at negative interest rates and would allow for principal forgiveness to the extent authorized and funded by a federal capitalization grant. The bill would

revise the term “financial assistance” to include other assistance that is authorized by a federal capitalization grant to the extent authorized and funded by that grant. By expanding the purposes for which moneys in the continuously appropriated revolving fund may be expended, the bill would make an appropriation.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(5) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on January 8, 2010.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on January 8, 2010, pursuant to the California Constitution.

(6) This bill would declare that it is to take effect immediately as an urgency statute.

This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2009.

~~The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on January 8, 2010.~~

~~This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on January 8, 2010, pursuant to the California Constitution.~~

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14560 of the Public Resources Code is
2 amended to read:

3 14560. (a) (1) Except as provided in paragraph (3), a beverage
4 distributor shall pay the department, for deposit into the fund, a

1 redemption payment of four cents (\$0.04) for a beverage container
2 sold or offered for sale in this state by the distributor.

3 (2) A beverage container with a capacity of 24 fluid ounces or
4 more shall be considered as two beverage containers for purposes
5 of redemption payments paid pursuant to paragraph (1).

6 (3) On and after July 1, 2007, the amount of the redemption
7 payment and refund value for a beverage container with a capacity
8 of less than 24 fluid ounces sold or offered for sale in this state by
9 a dealer shall equal five cents (\$0.05) and the amount of redemption
10 payment and refund value for a beverage container with a capacity
11 of 24 fluid ounces or more shall be ten cents (\$0.10), if the
12 aggregate recycling rate reported pursuant to Section 14551 for
13 all beverage containers subject to this division is less than 75
14 percent for the 12-month reporting period from January 1, 2006,
15 to December 31, 2006, or for any calendar year thereafter.

16 (b) Except as provided in subdivision (c), a beverage container
17 sold or offered for sale in this state has a refund value of four cents
18 (\$0.04) if the beverage container has a capacity of less than 24
19 fluid ounces and eight cents (\$0.08) if the beverage container has
20 a capacity of 24 fluid ounces or more.

21 (c) Notwithstanding subdivision (b), the department may, on
22 and after January 1, 2007, but not after July 1, 2007, increase the
23 amount of the refund value specified in subdivision (b), by no
24 more than one cent (\$0.01), if the container has a capacity of less
25 than 24 fluid ounces, and by two cents (\$0.02) if the container has
26 a capacity of 24 fluid ounces or more, if the department determines,
27 as specified in subdivision (f) of Section 14581, there are sufficient
28 moneys remaining in the fund to make these increased payments.

29 (d) (1) The department shall ~~periodically~~ review the fund *at*
30 *least once every three months* to ensure that there are adequate
31 funds in the fund to pay refund values and other disbursements
32 required by this division.

33 (2) If the department determines, pursuant to a review made
34 pursuant to paragraph (1), that there may be inadequate funds to
35 pay the refund values and necessary disbursements required by
36 this division, the department shall immediately notify the
37 Legislature of the need for urgent legislative action.

38 (3) On or before 180 days, *but not less than 90 days*, after the
39 notice is sent pursuant to paragraph (2), the department may reduce
40 or eliminate expenditures, or both, from the fund as necessary,

1 according to the procedure set forth in Section 14581, to ensure
2 that there are adequate funds in the fund to pay the refund values
3 and other disbursements required by this division.

4 (e) This section does not apply to a refillable beverage container.

5 ~~(f) The repeal and reenactment of this section by Chapter 815~~
6 ~~of the Statutes of 1999 do not affect any obligations or penalties~~
7 ~~imposed by this section, as it read on January 1, 1999.~~

8 *SEC. 2. Section 14574 of the Public Resources Code is*
9 *amended to read:*

10 14574. (a) (1) A distributor of beverage containers shall pay
11 to the department the redemption payment for every beverage
12 container, other than a refillable beverage container, sold or
13 transferred to a dealer, less 1.5 percent for the distributor's
14 administrative costs.

15 ~~(2) The payment made by a distributor shall be made not later~~
16 ~~than the last day of the third month following the sale. The~~
17 ~~distributor shall make the payment in the form and manner that~~
18 ~~the department prescribes.~~

19 *(2) Between February 1, 2010, and June 30, 2012, inclusive,*
20 *the payment made by a distributor shall be made not later than*
21 *the last day of the second month following the sale. The distributor*
22 *shall make the payment in the form and manner that the department*
23 *prescribes.*

24 (b) (1) Notwithstanding subdivision (a), if a distributor displays
25 a pattern of operation in compliance with this division and the
26 regulations adopted pursuant to this division, to the satisfaction of
27 the department, the distributor may make a single annual payment
28 of redemption payments; ~~if the distributor meets either of the~~
29 ~~following requirements:~~ *distributor's projected redemption*
30 *payment for a calendar year totals less than seventy-five thousand*
31 *dollars (\$75,000).*

32 ~~(A) If the redemption payment and refund value is not increased~~
33 ~~pursuant to paragraph (3) of subdivision (a) of Section 14560, the~~
34 ~~distributor's projected redemption payment for a calendar year~~
35 ~~totals less than fifty thousand dollars (\$50,000).~~

36 ~~(B) If the redemption payment and refund value is increased~~
37 ~~pursuant to paragraph (3) of subdivision (a) of Section 14560, the~~
38 ~~distributor's projected redemption payment for a calendar year~~
39 ~~totals less than seventy-five thousand dollars (\$75,000).~~

1 (2) An annual redemption payment made pursuant to this
2 subdivision is due and payable on or before February 1 for every
3 beverage container sold or transferred by the distributor to a dealer
4 in the previous calendar year.

5 (3) A distributor shall notify the department of its intent to make
6 an annual redemption payment pursuant to this subdivision on or
7 before January 31 of the calendar year for which the payment will
8 be due.

9 *(c) On or before January 10, 2012, the department shall submit*
10 *to the relevant policy and budget committees of the Legislature an*
11 *assessment of the effect of ending the bimonthly payment pursuant*
12 *to paragraph (2) of subdivision (a) on the solvency of the fund.*
13 *The assessment shall include data used to make the assessment,*
14 *including sales, recycling, and other relevant information.*

15 *(d) This section shall become inoperative on July 1, 2012, and,*
16 *as of January 1, 2013, is repealed, unless a later enacted statute,*
17 *that becomes operative on or before January 1, 2013, deletes or*
18 *extends the dates on which it becomes inoperative and is repealed.*

19 SEC. 3. Section 14574 is added to the Public Resources Code,
20 to read:

21 14574. (a) (1) A distributor of beverage containers shall pay
22 to the department the redemption payment for every beverage
23 container, other than a refillable beverage container, sold or
24 transferred to a dealer, less 1.5 percent for the distributor's
25 administrative costs.

26 (2) The payment made by a distributor shall be made not later
27 than the last day of the third month following the sale. The
28 distributor shall make the payment in the form and manner that
29 the department prescribes.

30 (b) (1) Notwithstanding subdivision (a), if a distributor displays
31 a pattern of operation in compliance with this division and the
32 regulations adopted pursuant to this division, to the satisfaction
33 of the department, the distributor may make a single annual
34 payment of redemption payments, if the distributor's projected
35 redemption payment for a calendar year totals less than
36 seventy-five thousand dollars (\$75,000).

37 (2) An annual redemption payment made pursuant to this
38 subdivision is due and payable on or before February 1 for every
39 beverage container sold or transferred by the distributor to a
40 dealer in the previous calendar year.

1 (3) *A distributor shall notify the department of its intent to make*
2 *an annual redemption payment pursuant to this subdivision on or*
3 *before January 31 of the calendar year for which the payment will*
4 *be due.*

5 **(b)** *This section shall become effective on July 1, 2012.*

6 **SEC. 4.** *Section 14580 of the Public Resources Code is*
7 *amended to read:*

8 14580. (a) Except as provided in subdivision (d), the
9 department shall deposit all amounts paid as redemption payments
10 by distributors pursuant to Section 14574 and all other revenues
11 received into the California Beverage Container Recycling Fund,
12 which is hereby created in the State Treasury. Notwithstanding
13 Section 13340 of the Government Code, the money in the fund is
14 hereby continuously appropriated to the department for expenditure
15 without regard to fiscal year for the following purposes:

16 (1) The payment of refund values and administrative fees to
17 processors pursuant to Section 14573.

18 (2) For a reserve for contingencies, which shall not be greater
19 than an amount equal to 5 percent of the total amount paid to
20 processors pursuant to Section 14573 during the preceding calendar
21 year, plus the interest earned on that amount.

22 (b) The money in the fund may be expended by the department
23 for the administration of this division only upon appropriation by
24 the Legislature in the annual Budget Act.

25 (c) After setting aside funds estimated to be needed for
26 expenditures authorized pursuant to this section, the department
27 shall set aside funds on a quarterly basis for the purposes specified
28 in Section 14581. Notwithstanding Section 13340 of the
29 Government Code, that money is hereby continuously appropriated
30 to the department, without regard to fiscal year, for the purposes
31 specified in Section 14581.

32 (d) The department shall deposit all civil penalties or fines
33 collected pursuant to this division into the Penalty Account, which
34 is hereby created in the fund. The money in the Penalty Account
35 may be expended by the department only upon appropriation by
36 the Legislature, for purposes of this division.

37 **(e)** *The Legislature finds and declares that the maintenance of*
38 *the fund is of the utmost importance to the state and that it is*
39 *essential that any money in the fund be used solely for the purposes*

1 *authorized in this division and should not be used, loaned, or*
2 *transferred for any other purpose.*

3 *SEC. 5. Section 14581 of the Public Resources Code is*
4 *amended to read:*

5 14581. (a) Subject to the availability of funds, and pursuant
6 to subdivision (c), the department shall expend the moneys set
7 aside in the fund, pursuant to subdivision (c) of Section 14580, for
8 the purposes of this section:

9 ~~(1) (A) On and after July 1, 2005, to June 30, 2006, inclusive,~~
10 ~~up to thirty-one million dollars (\$31,000,000) may be expended~~
11 ~~for that fiscal year for the payment of handling fees pursuant to~~
12 ~~Section 14585.~~

13 ~~(B) On and after July 1, 2006, to June 30, 2007, inclusive, up~~
14 ~~to thirty-three million dollars (\$33,000,000) may be expended for~~
15 ~~that fiscal year for the payment of handling fees pursuant to Section~~
16 ~~14585.~~

17 ~~(C) On and after July 1, 2007, to June 30, 2008, inclusive, up~~
18 ~~to thirty-five million dollars (\$35,000,000) may be expended for~~
19 ~~that fiscal year for the payment of handling fees pursuant to Section~~
20 ~~14585.~~

21 ~~(D)~~
22 (1) For each fiscal year commencing July 1, 2008, the
23 department may expend the amount necessary to make the required
24 handling fee payment pursuant to Section 14585.

25 (2) Fifteen million dollars (\$15,000,000) shall be expended
26 annually for payments for curbside programs and neighborhood
27 dropoff programs pursuant to Section 14549.6.

28 (3) (A) Fifteen million dollars (\$15,000,000), plus the
29 proportional share of the cost-of-living adjustment, as provided in
30 subdivision (b), shall be expended annually in the form of grants
31 for beverage container litter reduction programs and recycling
32 programs issued to either of the following:

33 (i) Certified community conservation corps that were in
34 existence on September 30, 1999, or that are formed subsequent
35 to that date, that are designated by a city or a city and county to
36 perform litter abatement, recycling, and related activities, if the
37 city or the city and county has a population, as determined by the
38 most recent census, of more than 250,000 persons.

39 (ii) Community conservation corps that are designated by a
40 county to perform litter abatement, recycling, and related activities,

1 and are certified by the California Conservation Corps as having
2 operated for a minimum of two years and as meeting all other
3 criteria of Section 14507.5.

4 (B) Any grants provided pursuant to this paragraph shall not
5 comprise more than 75 percent of the annual budget of a
6 community conservation corps.

7 ~~(4) (A) On or after July 1, 2007, until June 30, 2008, for only~~
8 ~~that fiscal year, up to twenty million dollars (\$20,000,000) may~~
9 ~~be expended in the form of competitive grants issued to community~~
10 ~~conservation corps that are designated by a city or county, and that~~
11 ~~meet both of the following criteria:~~

12 ~~(i) Are certified by the California Conservation Corps as having~~
13 ~~operated for a minimum of two years.~~

14 ~~(ii) Meet all other requirements under Section 14507.5.~~

15 ~~(B) The department shall prepare and adopt criteria and~~
16 ~~procedures for evaluating grant applications on a competitive basis.~~
17 ~~Eligible activities for the use of these funds shall include~~
18 ~~developing new projects, or enhancing or assisting existing~~
19 ~~projects, to increase beverage container recycling and increasing~~
20 ~~the quality of recycled material at the following locations:~~

21 ~~(i) Multifamily dwellings.~~

22 ~~(ii) Schools.~~

23 ~~(iii) Commercial, state, and local government buildings.~~

24 ~~(iv) Bars, restaurants, hotels, and lodging establishments, and~~
25 ~~entertainment venues.~~

26 ~~(v) Parks and beaches.~~

27 ~~(C) Any grants provided pursuant to this paragraph shall not~~
28 ~~comprise more than 75 percent of the annual budget of a~~
29 ~~community conservation corps.~~

30 ~~(D) Any grants provided pursuant to this paragraph shall support~~
31 ~~one-time capital improvement projects and shall not be used to~~
32 ~~support ongoing staff activities.~~

33 ~~(E) Any grant funds appropriated pursuant to this paragraph~~
34 ~~that have not been awarded to a grantee prior to the end of the~~
35 ~~2007–08 fiscal year shall revert to the fund.~~

36 *(C) For the 2009–10 fiscal year only, the eight million two*
37 *hundred fifty thousand dollars (\$8,250,000) appropriated to the*
38 *California Conservation Corps for certified local conservation*
39 *corps by Item 3340-101-0133 of the 2009–10 Budget Act, as added*
40 *by Section 166 of Chapter 1 of the Fourth Extraordinary Session*

1 of the Statutes of 2009, shall be in addition to the amounts
2 expended pursuant to paragraph (3).

3 (5)

4 (4) (A) Ten million five hundred thousand dollars (\$10,500,000)
5 may be expended annually for payments of five thousand dollars
6 (\$5,000) to cities and ten thousand dollars (\$10,000) for payments
7 to counties for beverage container recycling and litter cleanup
8 activities, or the department may calculate the payments to counties
9 and cities on a per capita basis, and may pay whichever amount
10 is greater, for those activities.

11 (B) Eligible activities for the use of these funds may include,
12 but are not necessarily limited to, support for new or existing
13 curbside recycling programs, neighborhood dropoff recycling
14 programs, public education-promoting beverage container
15 recycling, litter prevention, and cleanup, cooperative regional
16 efforts among two or more cities or counties, or both, or other
17 beverage container recycling programs.

18 (C) These funds may not be used for activities unrelated to
19 beverage container recycling or litter reduction.

20 (D) To receive these funds, a city, county, or city and county
21 shall fill out and return a funding request form to the ~~Department~~
22 ~~of Conservation~~ department. The form shall specify the beverage
23 container recycling or litter reduction activities for which the funds
24 will be used.

25 (E) The ~~Department of Conservation~~ department shall annually
26 prepare and distribute a funding request form to each city, county,
27 or city and county. The form shall specify the amount of beverage
28 container recycling and litter cleanup funds for which the
29 jurisdiction is eligible. The form shall not exceed one double-sided
30 page in length, and may be submitted electronically. If a city,
31 county, or city and county does not return the funding request form
32 within 90 days of receipt of the form from the department, the city,
33 county, or city and county is not eligible to receive the funds for
34 that funding cycle.

35 (F) For the purposes of this paragraph, per capita population
36 shall be based on the population of the incorporated area of a city
37 or city and county and the unincorporated area of a county. The
38 department may withhold payment to any city, county, or city and
39 county that has prohibited the siting of a supermarket site, caused
40 a supermarket site to close its business, or adopted a land use policy

1 that restricts or prohibits the siting of a supermarket site within its
2 jurisdiction.

3 ~~(6)~~

4 (5) (A) One million five hundred thousand dollars (\$1,500,000)
5 may be expended annually in the form of grants for beverage
6 container recycling and litter reduction programs.

7 *(B) Notwithstanding subdivision (f), the department shall not*
8 *expend funds pursuant to this paragraph for the 2010 and 2011*
9 *calendar years.*

10 ~~(7)~~

11 (6) (A) The department shall expend the amount necessary to
12 pay the processing payment established pursuant to Section 14575.
13 The department shall establish separate processing fee accounts
14 in the fund for each beverage container material type for which a
15 processing payment and processing fee are calculated pursuant to
16 Section 14575, or for which a processing payment is calculated
17 pursuant to Section 14575 and a voluntary artificial scrap value is
18 calculated pursuant to Section 14575.1, into which account shall
19 be deposited both of the following:

20 (i) All amounts paid as processing fees for each beverage
21 container material type pursuant to Section 14575.

22 (ii) Funds equal to the difference between the amount in clause
23 (i) and the amount of the processing payments established in
24 subdivision (b) of Section 14575, and adjusted pursuant to
25 paragraph (2) of subdivision (c) of, and subdivision (f) of, Section
26 14575, to reduce the processing fee to the level provided in
27 subdivision ~~(f)~~ (e) of Section 14575, or to reflect the agreement
28 by a willing purchaser to pay a voluntary artificial scrap value
29 pursuant to Section 14575.1.

30 (B) Notwithstanding Section 13340 of the Government Code,
31 the moneys in each processing fee account are hereby continuously
32 appropriated to the department for expenditure without regard to
33 fiscal years, for purposes of making processing payments pursuant
34 to Section 14575.

35 *(C) Notwithstanding the other provisions of this section and*
36 *Section 14575, for the 2010 and 2011 calendar years, the total*
37 *amount that the department may expend to reduce the amount of*
38 *processing fees for each container type shall not exceed the total*
39 *amount expended to reduce processing fees in the 2008 calendar*
40 *year.*

1 ~~(8)~~

2 (7) (A) Up to five million dollars (\$5,000,000) may be annually
3 expended by the department for the purposes of undertaking a
4 statewide public education and information campaign aimed at
5 promoting increased recycling of beverage containers.

6 ~~(9) Until January 1, 2008, the department may expend up to~~
7 ~~five million dollars (\$5,000,000) for the purposes of undertaking~~
8 ~~a statewide public education and information campaign aimed at~~
9 ~~promoting increased recycling of beverage containers that meets~~
10 ~~both of the following requirements:~~

11 ~~(A) The public education and information campaign is~~
12 ~~multimedia and includes print, radio, and television.~~

13 ~~(B) The public education and information campaign is~~
14 ~~multilingual.~~

15 ~~(B) Notwithstanding subdivision (f), the department shall not~~
16 ~~expend funds pursuant to this paragraph for the 2010 and 2011~~
17 ~~calendar years.~~

18 ~~(10)~~

19 (8) Up to ~~fifteen million dollars (\$15,000,000)~~ *ten million*
20 *dollars (\$10,000,000)* may be expended annually by the department
21 for quality incentive payments for empty *glass* beverage containers
22 pursuant to Section 14549.1.

23 ~~(11)~~

24 (9) Up to twenty million dollars (\$20,000,000) may be expended
25 annually by the department, until January 1, 2012, to issue grants
26 for recycling market development and expansion-related activities
27 aimed at increasing the recycling of beverage containers, ~~including.~~
28 *Notwithstanding subdivision (f), the department shall not expend*
29 *any funds pursuant to this paragraph for the 2010 and 2011*
30 *calendar years. The activities that may be funded include, but are*
31 *not limited to, the following:*

32 (A) Research and development of collecting, sorting, processing,
33 cleaning, or otherwise upgrading the market value of recycled
34 beverage containers.

35 (B) Identification, development, and expansion of markets for
36 recycled beverage containers.

37 (C) Research and development for products manufactured using
38 recycled beverage containers.

39 (D) Research and development to provide high-quality materials
40 that are substantially free of contamination.

(E) Payments to California manufacturers who recycle beverage containers that are marked by resin type identification code “3,” “4,” “5,” “6,” or “7,” pursuant to Section 18015.

~~(12) Up to ten million dollars (\$10,000,000) may be transferred on a one-time basis by the department to the Recycling Infrastructure Loan Guarantee Account, for expenditure pursuant to Section 14582.~~

~~(13) Up to ten million dollars (\$10,000,000) may be expended annually by the department for the payment of recycling incentive payments pursuant to Section 14549.7 until payments for eligible beverage containers redeemed or collected for recycling on or before December 31, 2009, have been paid.~~

~~(14)~~

~~(10) Up to five million dollars (\$5,000,000) ten million dollars (\$10,000,000) may be expended annually by the department for market development payments for empty plastic beverage containers pursuant to Section 14549.2, until January 1, 2012.~~

~~(15) Up to five million dollars (\$5,000,000) may be expended, by the department, on a one-time basis beginning on January 1, 2007, in coordination with the Department of Parks and Recreation for the purposes of installing source separated beverage container recycling receptacles at each of the state parks, starting with those parks that have the highest day use.~~

~~(16) Up to five million dollars (\$5,000,000) may be expended, from January 1, 2007, to January 1, 2008, to provide grants to local governments or nonprofit agencies to place multifamily housing source separated beverage container recycling receptacles in low-income communities.~~

~~(17) (A) Up to fifteen million dollars (\$15,000,000) may be expended from January 1, 2008, to January 1, 2009, to provide grants to place source separated beverage container recycling receptacles in multifamily housing.~~

~~(B) Notwithstanding subdivision (b) of Section 14580, the amount of one hundred ninety-eight thousand dollars (\$198,000) may be expended by the department from the fund, on a one-time basis, for the administrative costs of implementing the grant program established by subparagraph (A).~~

~~(18)~~

1 (11) (A) Up to twenty million dollars (\$20,000,000) may be
2 expended from July 1, 2009, to January 1, 2012, inclusive, for
3 either of the following:

4 (i) Grants for beverage container recycling and litter reduction
5 programs that emphasize the greatest and most effective collection
6 of beverage containers per dollar spent to ensure the program's
7 performance and accountability.

8 (ii) Focused, regional community beverage container recycling
9 and litter reduction programs that enable the department to more
10 effectively organize the amount and type of resources needed for
11 regional and statewide efforts to increase recycling.

12 (B) The department shall require, as a condition of receiving
13 grant funds pursuant to subparagraph (A), each grant recipient to
14 submit a final report including, but not limited to, the grant
15 recipient's reported volumes of beverage containers recycled,
16 where applicable.

17 (C) On or before July 1, 2014, the department shall publish an
18 evaluation of all grants made pursuant to subparagraph (A). At a
19 minimum, the evaluation shall summarize each final report
20 submitted by each grantee pursuant to subparagraph (B) and assess
21 whether the grantee adequately met the scope and objectives
22 outlined in the grant agreement.

23 (D) *Notwithstanding subdivision (f), the department shall not*
24 *expend funds pursuant to this paragraph for the 2010 and 2011*
25 *calendar years.*

26 (b) The fifteen million dollars (\$15,000,000) that is set aside
27 pursuant to paragraph (3) of subdivision (a) is a base amount that
28 the department shall adjust annually to reflect any increases or
29 decreases in the cost of living, as measured by the Department of
30 Labor, or a successor agency, of the federal government.

31 (c) (1) The department shall review all funds on a quarterly
32 basis *and provide a status report on its Internet Web site* to ensure
33 that there are adequate funds to make the payments specified in
34 this section and the processing fee reductions required pursuant
35 to Section 14575.

36 (2) If the department determines, pursuant to a review made
37 pursuant to paragraph (1), that there may be inadequate funds to
38 pay the payments required by this section and the processing fee
39 reductions required pursuant to Section 14575, the department

1 shall immediately notify the appropriate policy and fiscal
2 committees of the Legislature regarding the inadequacy.

3 (3) On or before 180 days, *but not less than 90 days*, after the
4 notice is sent pursuant to paragraph (2), the department may reduce
5 or eliminate expenditures, or both, from the funds as necessary,
6 according to the procedure set forth in subdivision (d).

7 (d) If the department determines that there are insufficient funds
8 to make the payments specified pursuant to this section and Section
9 14575, the department shall reduce all payments proportionally.

10 (e) Prior to making an expenditure pursuant to paragraph (7) of
11 subdivision (a), the department shall convene an advisory
12 committee consisting of representatives of the beverage industry,
13 beverage container manufacturers, environmental organizations,
14 the recycling industry, nonprofit organizations, and retailers to
15 advise the department on the most cost-effective and efficient
16 method of the expenditure of the funds for that education and
17 information campaign.

18 ~~(f) After setting aside money for the expenditures required~~
19 ~~pursuant to subdivisions (a) and (b) and Section 14580, the~~
20 ~~department may, on and after January 1, 2007, but not after July~~
21 ~~1, 2007, expend remaining moneys in the fund to pay a refund~~
22 ~~value in an amount greater than the refund value established~~
23 ~~pursuant to subdivision (b) of Section 14560.~~

24 *(f) Subject to the availability of funds, the department shall*
25 *retroactively pay in full any payments provided in this section that*
26 *have been proportionally reduced during the period of January*
27 *1, 2010, through June 30, 2010.*

28 SEC. 6. Section 13476 of the Water Code is amended to read:
29 13476. Unless the context otherwise requires, the following
30 definitions govern the construction of this chapter:

31 (a) “Administration fund” means the State Water Pollution
32 Control Revolving Fund Administration Fund.

33 (b) “Board” means the State Water Resources Control Board.

34 (c) “Federal Clean Water Act” or “federal act” means the Clean
35 Water Act (33 U.S.C. Sec. 1251 et seq.) and acts amendatory
36 thereof or supplemental thereto.

37 (d) (1) “Financial assistance” means assistance authorized under
38 Section 13480. Financial assistance includes loans, refinancing,
39 installment sales agreements, purchase of debt, and loan guarantees
40 for municipal revolving funds, but excludes grants. ~~Financial~~

(2) *Notwithstanding paragraph (1), financial assistance may include grants for projects authorized pursuant to Section 13480 to the extent that grants for those projects are funded by the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5) or other assistance directed by a federal capitalization grant deposited in the fund to the extent authorized and funded by that grant.*

(e) “Fund” means the State Water Pollution Control Revolving Fund.

(f) “Grant fund” means the State Water Pollution Control Revolving Fund Small Community Grant Fund.

(g) “Matching funds” means money that equals that percentage of federal contributions required by the federal act to be matched with state funds.

(h) “Municipality” has the same meaning and construction as in the federal act and also includes all state, interstate, and intermunicipal agencies.

(i) “Publicly owned” means owned by a municipality.

(j) “Severely disadvantaged community” means a community with a median household income of less than 60 percent of the statewide median household income.

SEC. 7. *Section 13480 of the Water Code is amended to read:*

13480. (a) Moneys in the fund shall be used only for the permissible purposes allowed by the federal act *or a federal capitalization grant deposited in the fund to the extent authorized and funded by that grant*, including providing financial assistance for the following purposes:

(1) The construction of publicly owned treatment works, as defined by Section 212 of the federal act (33 U.S.C. Sec. 1292), by any municipality.

(2) Implementation of a management program pursuant to Section 319 of the federal act (33 U.S.C. Sec. 1329).

(3) Development and implementation of a conservation and management plan under Section 320 of the federal act (33 U.S.C. Sec. 1330).

(4) Financial assistance, other than a loan, toward the nonfederal share of costs of any grant-funded treatment works project, but only if that assistance is necessary to permit the project to proceed.

1 (5) Financial assistance provided under the federal American
2 Recovery and Reinvestment Act of 2009 (Public Law 111-5) for
3 projects authorized pursuant to this subdivision.

4 (b) Consistent with expenditure for authorized purposes, moneys
5 in the fund may be used for the following purposes:

6 (1) Loans that meet all of the following requirements:

7 (A) Are made at or below market interest rates.

8 (B) Require annual payments of principal and any interest, with
9 repayment commencing not later than one year after completion
10 of the project for which the loan is made and full amortization not
11 later than 20 years after project completion unless otherwise
12 authorized under the federal American Recovery and Reinvestment
13 Act of 2009 (Public Law 111-5) for projects authorized pursuant
14 to subdivision (a) and to the extent funded by that act by a federal
15 capitalization grant deposited in the fund to the extent authorized
16 and funded by that grant. Loan forgiveness is permissible to the
17 extent permitted by the federal American Recovery and
18 Reinvestment Act of 2009 (Public Law 111-5) for projects
19 authorized pursuant to subdivision (a) and to the extent funded by
20 that act authorized by a federal capitalization grant deposited in
21 the fund to the extent authorized and funded by that grant.

22 (C) Require the loan recipient to establish an acceptable
23 dedicated source of revenue for repayment of a loan.

24 (D) (i) Contain other terms and conditions required by the board
25 or the federal act or applicable rules, regulations, guidelines, and
26 policies. To the extent permitted by federal law, the combined
27 interest and loan service rate shall be set at a rate that does not
28 exceed 50 percent of the interest rate paid by the state on the most
29 recent sale of state general obligation bonds and the combined
30 interest and loan service rate shall be computed according to the
31 true interest cost method. If the combined interest and loan service
32 rate so determined is not a multiple of one-tenth of 1 percent, the
33 combined interest and loan service rate shall be set at the multiple
34 of one-tenth of 1 percent next above the combined interest and
35 loan service rate so determined. A loan from the fund used to
36 finance costs of facilities planning, or the preparation of plans,
37 specifications, or estimates for construction of publicly owned
38 treatment works shall comply with Section 603(e) of the federal
39 act (33 U.S.C. Sec. 1383(e)).

(ii) Notwithstanding clause (i), if the loan applicant is a municipality, an applicant for a loan for the implementation of a management program pursuant to Section 319 of the federal Clean Water Act (33 U.S.C. Sec. 1329), or an applicant for a loan for nonpoint source or estuary enhancement pursuant to Section 320 of the federal Clean Water Act (33 U.S.C. Sec. 1330), and the applicant provides matching funds, the combined interest and loan service rate on the loan shall be 0 percent. A loan recipient that returns to the fund an amount of money equal to 20 percent of the remaining unpaid federal balance of an existing loan shall have the remaining unpaid loan balance refinanced at a combined interest and loan service rate of 0 percent over the time remaining in the original loan contract.

(2) To buy or refinance the debt obligations of municipalities within the state at or below market rates if those debt obligations were incurred after March 7, 1985.

(3) To guarantee, or purchase insurance for, local obligations where that action would improve credit market access or reduce interest rates.

(4) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the state, if the proceeds of the sale of those bonds will be deposited in the fund.

(5) To establish loan guarantees for similar revolving funds established by municipalities.

(6) To earn interest.

(7) For payment of the reasonable costs of administering the fund and conducting activities under Title VI (commencing with Section 601) of the federal act (33 U.S.C. Sec. 1381 et seq.). Those costs shall not exceed 4 percent of all federal contributions to the fund, except that if permitted by federal and state law, interest repayments into the fund and other moneys in the fund may be used to defray additional administrative and activity costs to the extent permitted by the federal government and approved by the Legislature in the Budget Act.

(8) For financial assistance toward the nonfederal share of the costs of grant-funded treatment works projects to the extent permitted by the federal act.

(9) Grants, *principal forgiveness*, *negative interest rates*, and any other type of, or variation on the above types of, assistance

1 authorized by the federal American Recovery and Reinvestment
2 Act of 2009 (Public Law 111-5) for projects authorized pursuant
3 to subdivision (a) and to the extent funded by that act a federal
4 capitalization grant deposited in the fund to the extent authorized
5 and funded by that grant.

6 *SEC. 8. No reimbursement is required by this act pursuant to*
7 *Section 6 of Article XIII B of the California Constitution because*
8 *the only costs that may be incurred by a local agency or school*
9 *district will be incurred because this act creates a new crime or*
10 *infraction, eliminates a crime or infraction, or changes the penalty*
11 *for a crime or infraction, within the meaning of Section 17556 of*
12 *the Government Code, or changes the definition of a crime within*
13 *the meaning of Section 6 of Article XIII B of the California*
14 *Constitution.*

15 *SEC. 9. This act addresses the fiscal emergency declared by*
16 *the Governor by proclamation on January 8, 2010, pursuant to*
17 *subdivision (f) of Section 10 of Article IV of the California*
18 *Constitution.*

19 *SEC. 10. This act is an urgency statute necessary for the*
20 *immediate preservation of the public peace, health, or safety within*
21 *the meaning of Article IV of the Constitution and shall go into*
22 *immediate effect. The facts constituting the necessity are:*

23 *In order to protect the recycling of beverage containers in the*
24 *state and to authorize, as soon as possible, the expenditure of funds*
25 *under the State Water Pollution Control Revolving Fund Program*
26 *in accordance with federal laws, it is necessary that this act take*
27 *effect immediately.*

28 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
29 ~~changes relating to the Budget Act of 2009.~~

30 ~~SEC. 2. This act addresses the fiscal emergency declared by~~
31 ~~the Governor by proclamation on January 8, 2010, pursuant to~~
32 ~~subdivision (f) of Section 10 of Article IV of the California~~
33 ~~Constitution.~~